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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,096	04/17/2001	Philippe Gatepin	PHFR 000041	7718
24737	7590	09/21/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			CZEKAJ, DAVID J	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2613	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/836,096	GATEPIN, PHILIPPE	
	Examiner Dave Czekaj	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 July 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Response to Arguments***

On pages 5-6 applicant argues that Wang cannot be modified with Wells since it would amount to modifying the principle of operation of the primary reference. While the applicant's points are understood, the examiner respectfully disagrees. Applicant's arguments are not persuasive since the principle of operation has not been identified. Therefore the rejection has been maintained.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (6167084), (hereinafter referred to as "Wang") in view of Wells et al. (6310915), (hereinafter referred to as "Wells").

Regarding claims 2 and 4, Wang discloses an apparatus that allocates bits in a statistical multiplexing system. This apparatus comprises "a regulation process that uses quantization scales and the input signal to obtain the output rate" (Wang: figure 4, wherein the regulation process is performed by the encoder and decoder), "computing an indicator of a compressed data quality for the respective transcoding channels, the indicator being computed from the input compressed data signal" (Wang: figure 6, column 11-column 12, wherein the

indicator is the complexity measure shown in equations 5 and 7-8, the compressed input signal is the compressed program), “allocating the output bit rate to the transcoding channel from a total output bit rate, indicator, and a sum of the indicators” (Wang: figure 6, column 8, lines 54-67- column 9, lines 1-25, wherein the output bit rate is the target number of bits, the sum of the indicators is the complexities of each frame) and the indicator is computed from an average of a function of average quantization scale and a number of bits used to encode the picture” (Wang: columns 11-12, wherein the average quantization scale is  $Q_{I,n,t}$ , the number of bits used for the picture is  $R_{I,n,t}$ ). Although Wang shows calculating an indicator, Wang fails to show computing the indicator independent of the regulation process as claimed. Wells teaches that computing an indicator independent of a regulation process maintains the overall quality of video (Wells: column 4, lines 60-67 – column 5, lines 1-30, wherein the indicator is the complexity, figure 2, wherein the regulation process is performed by the encoder and decoder units). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Wang and add the indicator computation taught by Wells in order to obtain an apparatus that transmits better overall quality of video. One would be further motivated since Wang is silent on when (before or after the regulation process) the indicator is computed.

Regarding claim 3, Wang discloses “the indicator is computed from a weighted average of a set of averages calculated over the pictures” (Wang:

columns 11-12, wherein the averages is the quantization scale, the weight is the weighting factor K).

Regarding claims 5 and 6, note the examiners rejection for claim 1, and in addition Wang discloses "a set of transcoders for converting input compressed data at an input bit rate into output signals encoded at an output bit rate" (Wang: figures 3 and 6, wherein the transcoders convert the input bit rate into an output bit rate), "computing an indicator of a compressed data quality for the respective transcoding channels, the indicator being computed from the input compressed data signal" (Wang: figure 6, column 11-column 12, wherein the indicator is the complexity measure shown in equations 5 and 7-8, the compressed input signal is the compressed program), "allocating the output bit rate to the transcoding channel from a total output bit rate, indicator, and a sum of the indicators" (Wang: figure 6, column 8, lines 54-67- column 9, lines 1-25, wherein the output bit rate is the target number of bits, the sum of the indicators is the complexities of each frame), and a "multiplexer for providing a multiplexed signal at the output bit rate by multiplexing the output signals" (Wang: figure 6, item 660).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Monday - Friday 9 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJC



VU LE  
PRIMARY EXAMINER